

CITY COUNCIL
ATLANTA, GEORGIA

Carla Smith

Debi Gray

03-0409

AN ORDINANCE
BY: COUNCIL MEMBERS C. T. MARTIN &

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ATLANTA TO ADD A NEW ARTICLE TO ENSURE THAT THE CITY OF ATLANTA AND BUSINESSES THAT BENEFIT FROM RECEIPT OF CITY FUNDS OR FROM USE OF CITY PROPERTY ENGAGE IN RESPONSIBLE BUSINESS PRACTICES BY PAYING THEIR EMPLOYEES A LIVING WAGE AND HEALTH BENEFITS, PRACTICING PAY EQUITY, AND ENSURING THAT PUBLIC FUNDS AND PUBLIC PROPERTY ARE USED IN A VIEWPOINT-NEUTRAL FASHION AND NOT DIVERTED FOR INAPPROPRIATE PURPOSES

WHEREAS, it is important to the health and welfare of all citizens of Atlanta that working people are paid a wage that enables them to lift their families out of poverty; and

WHEREAS, the City awards taxpayer-funded contracts to businesses to provide services to the public and to City government; and

WHEREAS, the City provides taxpayer-funded financial assistance to businesses that pledge to create jobs and expand economic opportunity in Atlanta; and

WHEREAS, the City leases valuable City-owned property such as concessions at the Hartsfield Atlanta International Airport to businesses seeking the opportunity to serve customers at these desirable locations; and

WHEREAS, many service employees in Atlanta and their families live at or below the poverty line; and

WHEREAS, the payment of such inadequate compensation tends to negatively affect the quality of services to the City and the public by fostering high turnover and instability in the workplace; and

WHEREAS, ensuring that businesses benefiting from City funds or property promote the creation of jobs that pay a living wage will increase the ability of Atlanta residents to attain self-sufficiency, decrease economic hardship in the city, and reduce the need for the taxpayers to fund social services in order to provide supplemental support for the employees of local businesses; and

WHEREAS, many businesses benefiting from City funds or property do not provide health insurance to their employees, adversely affecting employee performance and absenteeism, and increasing the burden on the taxpayers of caring for the uninsured through local and state health programs; and

WHEREAS, the City is concerned that women employed by businesses receiving City funds or benefiting from use of City property may receive unequal pay for performing work equal to that performed by men; and

WHEREAS, it is inappropriate that taxpayer funds awarded to businesses for purposes of providing services to the City or creating jobs in Atlanta should be used for unrelated purposes, such as encouraging or discouraging workers in relation to joining a union; and

WHEREAS, when City-controlled property is leased for private use, it is important that all parties seeking to contact persons working on City property be accorded reasonable access; and

WHEREAS, a City policy to promote the creation of living wage jobs complements other City programs aimed at meeting the employment and economic development needs of Atlanta and its workforce; and

WHEREAS, it is the purpose of this policy to ensure that businesses benefiting from taxpayer funds or the use of City property provide a living wage and health benefits to their employees, practice pay equity, and refrain from using public money and public property for inappropriate purposes, thus enhancing the welfare of workers of Atlanta, therefore:

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA AS FOLLOWS:

Section 1: That a new article of the Code of Ordinances of the City of Atlanta, Article __, is hereby created to read:

Section __ -- 1. Title and Purpose.

- (a) *Title*. This article shall be known as the "Atlanta Living Wage Ordinance."
- (b) *Purpose*. The purpose of this article is to ensure that when taxpayer-funded benefits are extended by the City of Atlanta to private businesses, they are used in a way that benefits the interests of the City as a whole by creating good jobs for Atlanta residents. The article therefore encourages the City, its service contractors and subcontractors, businesses benefiting from its tax, loan, grant, and subsidy assistance programs, and businesses benefiting from the opportunity to operate at the Hartsfield Atlanta International Airport and on other City-owned property to pay their employees a wage that will enable a full-time worker to support a family at a level that meets basic needs and avoids economic hardship. The article also encourages such businesses to practice pay equity. To ensure that taxpayer funds that are awarded to businesses to provide services for the City or to create jobs are not used for unrelated purposes, the article prohibits their use for purposes such as encouraging or deterring workers from joining a union. Similarly, to ensure that public property is used in a viewpoint-neutral fashion, the article requires that when City-controlled

property is leased for private use, all parties seeking to contact persons working on City property be accorded reasonable access.

Section __ -- 2. Effective Date, Duration of Coverage & Counting Employees

(a) This article shall take effect 90 days after its enactment and shall apply to any City Contract, City Financial Assistance Award or City Lease entered into, awarded, renewed, or extended after that effective date. Provided, however, that Covered Employers shall not be required to begin paying the wages and benefits established by this article, or to comply with the article's other requirements, until January 1, 2004. Provided further that the requirements of this article shall apply to renewals or extensions only where the City has the discretion not to renew or extend the agreement.

(b) The requirements of this article shall apply to a Covered Employer for the duration of the City Contract, City Lease, or City Financial Assistance involved. Where City Financial Assistance does not have a defined duration, or is received in a lump sum, its duration shall be deemed to be five years.

(c) When a City Contract, City Financial Assistance Award or City Lease becomes subject to the requirements of this article, any subcontractors, tenants or subtenants providing services relating to the City Contract or at the site that is the subject of the City Financial Assistance Award or City Lease shall immediately become subject to the requirements of this article, regardless of the award or renewal date of the subcontract, lease or sublease.

(d) When counting the number of Employees of a Contractor or Beneficiary for purposes of determining whether they are subject to the requirements of this article, the following rules shall apply:

(1) All Employees working firm-wide for the Contractor or Beneficiary, whether full-time, part-time or temporary, shall be counted.

(2) Persons who are or will be employed by any contractors, subcontractors, tenants or subtenants providing services relating to the City Contract or at the site that is the subject of the City Financial Assistance Award or City Lease shall be counted as if they were employees of the Contractor or Beneficiary.

(3) A Contractor or Beneficiary shall be deemed to employ the greater of the following:

(i) The greatest number of persons it employed at any point in the 12 months preceding the award of the City Contract, City Lease or City Financial Assistance; or

(ii) The greatest number of persons it will employ or is expected to employ after award of the City Contract, City Lease or City Financial Assistance.

(4) A Contractor or Beneficiary that, based on these rules, is deemed to employ more than the specified threshold number of Employees required for coverage under this article shall be deemed a Covered Employer for the duration of the City Contract, City Lease or City Financial Assistance.

(5) A Contractor or Beneficiary that employed fewer than specified threshold number of Employees at the beginning of the City Contract, City

Lease or City Financial Assistance Award but then exceeds the threshold during the duration thereof shall be deemed a Covered Employer for the remaining duration. In such event, the Contractor or Beneficiary shall be obligated to alert the CCO of its change in coverage status within 30 days.

(6) The CCO shall assess the number of persons employed by a Contractor or Beneficiary for purposes of determining coverage under this article.

Section __ -- 3. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Covered Employer* means:
 - (1) The City; or
 - (2) A Contractor; or
 - (3) A Beneficiary
- (b) *City* means:
 - (1) The City of Atlanta; or
 - (2) Any agency of the City of Atlanta; or
 - (3) Any public authority or agency, including but not limited to the Atlanta Development Authority, that is controlled by, a majority of the governing body of which is appointed by, or that receives public funds appropriated by or allocated on behalf of, the City of Atlanta or by any official of the City of Atlanta, including the Mayor; or
 - (4) The Hartsfield Atlanta International Airport, to the extent not included in the subsections above; or
 - (5) Any public authority, agency or entity operating a sports or recreational facility that is controlled or partly funded, by the City of Atlanta, to the extent not included in the subsections above.
- (c) *City Contract* means:
 - (1) Any contract between the City and any other entity to provide services to the City or its residents where the annual value of payments under the contract is \$25,000 or more;
 - (2) Where the same person, business, or one or more of its affiliates or subsidiaries, receives more than one contract from the City during a 12-month period, the value of those contracts shall be combined and the contracts shall be deemed City Contracts if the aggregate annual value exceeds \$25,000;
 - (3) Provided, however, that any contract with the City to provide construction services or other work that is subject to city, state or federal prevailing wage laws shall not be considered a City Contract for the purposes of this article.
- (d) *City Financial Assistance* or *City Financial Assistance Award* means:
 - (1) Any grant, loan, tax incentive or abatement, tax increment financing, bond financing (such as industrial development or airport revenue bonds), subsidy, or other form of financial assistance awarded by or with the approval of the City with an aggregate annual value of \$50,000 or more;

- (2) Where the same person, business, or one or more of its affiliates or subsidiaries, receives more than one award of financial assistance from the City during a 12-month period, the value of those awards of financial assistance shall be combined and the awards shall be deemed City Financial Assistance if the aggregate annual value exceeds \$50,000;
 - (3) Provided, however, that any award of financial assistance by the City for the performance of construction services or other work that is subject to city, state or federal prevailing wage laws shall not be considered City Financial Assistance for the purposes of this article.
- (e) *City Lease* means any lease, concession agreement, or other agreement authorizing any party to occupy, use, control or do business at property owned or controlled by the City including, but not limited to, licenses, right-of-entry agreements, terminal use agreements, and memoranda of understanding.
- (f) *Beneficiary* means any person or business having at least 15 employees, that:
- (1) Is a recipient of City Financial Assistance or of a City Lease including, but not limited to, a City Lease at the Hartsfield Atlanta International Airport; or
 - (2) Is a tenant, subtenant or concessionaire of a recipient of City Financial Assistance or of a City Lease and uses or occupies property that is the subject of the City Lease or City Financial Assistance; or
 - (3) Is a contractor or subcontractor of a recipient of City Financial Assistance or of a City Lease and provides services on-site at the property that is the subject of the City Lease or City Financial Assistance.
- (g) *Contractor* means any person or business having at least 15 employees that is a party to a City Contract, or is a subcontractor that provides services relating to performing the City Contract.
- (h) *Employee* means any person who performs work on a full-time, part-time, temporary, or seasonal basis and includes employees, contingent or contracted workers, and persons made available to work through the services of a temporary services, staffing or employment agency or similar entity, for:
- (1) The City; or
 - (2) A Contractor; or
 - (3) A Beneficiary
 - (4) Provided, however, *Employee* shall not mean any person:
 - (i) Employed in construction work or other work that is subject to city, state or federal prevailing wage laws; or
 - (ii) Younger than 18 years of age; or
 - (iii) Employed during summer months in a program to create summer jobs for students or teenagers; or
 - (iv) Engaged in a bona fide training program, not to exceed 60 days in duration, which will ensure that the person advances into permanent employment; or
 - (v) Engaged or participating in a bona fide student internship program.
- (i) *City Compliance Official* or *CCO* means the person and/or agency that shall be designated by the Mayor to be charged with primary responsibility for

implementing and enforcing this article, including coordinating and ensuring effective compliance by all City agencies.

Section __ -- 4. Living Wage and Health Benefits.

- (a) A Covered Employer must pay Employees no less than a Living Wage for all hours worked for the City, performing a City Contract, or at a site or project that is the subject of City Financial Assistance or a City Lease, and must provide Health Benefits.
- (b) A *Living Wage* shall be \$10.50 per hour beginning January 1, 2004, and each year thereafter shall be upwardly adjusted in proportion to the increase, if any, during the preceding 12-months in the Consumer Price Index for All Urban Consumers for the Atlanta, Ga. MSA.
- (c) Providing *Health Benefits* means either:
 - (1) A Covered Employer's providing health benefits for an Employee and/or his/her dependents where the Covered Employer's contribution to the health benefits package is valued at no less than the Health Benefits Supplement Rate for each hour worked by the Employee; or
 - (2) A Covered Employer's Paying an Employee a wage rate of no less than the sum of the current Living Wage and the Health Benefits Supplement Rate.
- (d) The *Health Benefits Supplement Rate* shall be \$1.50 per hour beginning January 1, 2004 and each year thereafter shall be upwardly adjusted in proportion to the increase, if any, during the preceding 12-months in the Consumer Price Index for Medical Care for the Atlanta, Ga. MSA.
- (e) The City shall publish a bulletin by December 1 of each year announcing the adjusted Living Wage and Health Benefits Supplement Rate, which shall take effect on January 1. This bulletin shall be distributed to all City agencies and Covered Employers upon publication. Covered Employers shall provide written notification of the rate adjustments to their Employees, and to their covered contractors, subcontractors, tenants and subtenants. In the event that the City fails to publish the adjusted Living Wage and Health Benefit Supplement Rates, it shall remain the obligation of each Covered Employer to calculate them itself and beginning paying the and pay the adjusted Living Wage and Health Benefits effective January 1.

Section __ -- 5. Paid Days Off.

- (a) Covered Employers shall provide Employees at least 12 compensated days off per year for holidays, sick leave, vacation, or personal necessity. Employees shall accrue one compensated day off per month of full-time-equivalent employment based on hours during which the Employee is entitled to be paid a living wage. Employees shall be eligible to use accrued days off after the first 6 months of employment or consistent with employer policy, whichever is more generous. All paid days off provided by a Covered Employer, including paid holidays and paid days off provided pursuant to a collective bargaining agreement, may, consistent with established employer policy, be counted toward provision of the required 12 compensated days off.

(b) Covered Employers shall also permit Employees to take at least an additional 10 days per year of uncompensated days off to be used for sick leave necessitated by illness of the Employee or a member of his or her immediate family where the employee has exhausted his or her compensated days off for that year. This provision does not mandate the accrual from year to year of uncompensated days off. The uncompensated leave requirements of this provision shall not apply to any employee entitled to more extensive uncompensated leave pursuant to the federal family and medical leave act. Where a Covered Employer provides more than 12 compensated days off per year, those days above 12 may be counted towards satisfaction of this requirement.

Section __ -- 6. Pay Equity.

- (a) All Covered Employers must practice Pay Equity.
- (b) *Pay Equity* means that a Covered Employer must pay an Employee a wage that is sufficient to eliminate any disparities in wages paid to employees of comparable skill and training in job titles or classifications occupied primarily by women as compared to job titles or classifications occupied primarily by men. A job title or classification shall be regarded as occupied primarily by one gender if more than 75% of Employees therein are of one gender.
- (c) The wage necessary to meet Pay Equity may exceed, but may not be less than, the Living Wage.
- (d) It shall be the responsibility of the Covered Employer to monitor its compliance with this section and to seek from the CCO, on a case-by-case basis, such guidance as is necessary to reasonably ensure compliance.
- (e) Unless exempted by Section __ -- 6(f) , a Covered Employer shall include in any report filed pursuant to Section __ -- 11(b) , a written company-wide report that identifies:
 - (1) The total numbers of male and female Employees in the Covered Employer;
 - (2) The numbers of male and female Employees in each of the Covered Employer's job classifications; and
 - (3) The pay rate or range of pay rates, as applicable, for each job classification.
- (f) A Covered Employer may apply for and receive an annual exemption from the requirements of this section by providing to the CCO evidence that the Covered Employer does not have more than one job title or classification for purposes of this section.

Section __ -- 7. No Conflict with Other Labor Standards.

- (a) This article establishes minimum standards for the wages, benefits and protections that must be extended to Employees. Nothing in this article shall be construed as prohibiting or conflicting with any other obligation or law, including any collective bargaining agreement, that mandates the provision of higher or superior wages, benefits, or protections to Employees. No part of this article shall be construed as applying to any Employee or project where such coverage would be preempted by federal or state law. However, in such circumstances, only those

applications of this article for which coverage would be preempted shall be construed as inapplicable.

(b) Any requirements of this article may be waived by the terms of a bona fide collective bargaining agreement provided that this article is expressly referenced in the agreement and the requirements agreed to be waived are set forth in the agreement in clear and unambiguous terms. Unilateral implementation of terms and conditions of employment by either party to a collective bargaining relationship shall not constitute a waiver of any of the requirements of this section.

Section __ -- 8. Retaliation Prohibited.

It shall be unlawful for a Covered Employer or any other party to take any action against a person in retaliation for exercising rights protected under this article. Rights protected under this article shall include the freedom to inform others of their potential rights under this article, and to assist others in asserting such rights. This protection shall also apply to a person who mistakenly, but in good faith, alleges noncompliance with this article. Taking adverse action against a person within 60 days of the person's exercise of rights protected under this article shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights. Covered Employers shall also comply with other applicable federal, state and local labor and workplace laws.

Section __ -- 9. Ban on Use of Public Funds for Inappropriate Activities & Equal Access to Public Property.

(a) Covered Employers shall use City funds received pursuant to City Contracts or City Financial Assistance Awards for the purposes for which they are awarded. No Covered Employer may use, directly or indirectly, any City funds for the purpose of persuading employees to support or oppose unionization. In particular, City funds shall not be used to schedule or hold meetings related to union representation during employees' working hours. However, this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to the obligations incurred under a bona fide collective bargaining agreement.

(b) Where a Covered Employer operates on property owned or controlled by the City then, in order to ensure that publicly owned or controlled property is used in a viewpoint-neutral fashion, both the Covered Employer and labor unions shall be accorded reasonable opportunity to communicate with Employees there. Both shall have reasonable access to the premises, to post notices, to distribute literature, and to use the premises to hold meetings with Employees.

Section __ -- 10. Certification Agreements for Contractors and Beneficiaries.

(a) To be eligible for consideration to enter into or receive any City Contract, City Lease or City Financial Assistance, a Contractor or Beneficiary must file a Certification Agreement with the department or agency of the City responsible for awarding the City Contract, City Lease, or City Financial Assistance, and must ensure that contractors, subcontractors, tenants or subtenants that will assist in performing the City Contract, or that will occupy property that is the subject of the City Lease or

City Financial Assistance also file Certification Agreements. Where contractors, subcontractors, tenants or subtenants are not yet identified, the Contractor or Beneficiary shall so indicate and shall file an updated Certification Agreement when any contractor, subcontractor, tenant or subtenant is identified, added or substituted.

(b) The Certification Agreement shall be completed on a form provided by the CCO and shall include the following information:

(1) A description of the City Contract, City Financial Assistance Award or City Lease;

(2) For a City Contract or City Financial Assistance Award, the projected annual value;

(3) The recipient's number of Employees, as calculated under the rules set forth in Section __ -- 2(d) ;

(4) If its number of Employees is 15 or more, a pledge by the recipient to comply with the requirements of this article; and

(5) The names and addresses of any contractors, subcontractors, tenants or subtenants that will assist in performing the City Contract, or that will occupy property that is the subject of the City Lease or City Financial Assistance.

(c) Any City Contract, City Lease or City Financial Assistance that is subject to the requirements of this article shall be deemed void on grounds of illegality where the Contractor or Beneficiary fails to file a Certification Agreement before entering into the transaction.

(d) For good cause shown, a Covered Employer that has failed to meet the requirements of Section __ -- 10 may correct the violation and be permitted to continue the City Contract, City Lease or City Financial Assistance Agreement if it:

(1) Files the required Certification Agreement within 5 business days of being apprised of the omission; and

(2) Retroactively compensates, within 15 calendar days, each Employee for all wages and benefits that should have been paid pursuant to this article.

Section __ -- 11. Monitoring and Reporting Requirements.

(a) The CCO shall be responsible for coordinating implementation of this article by City agencies, and compliance with its requirements by Covered Employers. The CCO shall monitor Covered Employers' compliance and shall report any violations to the City Attorney.

(b) Covered Employers, including covered contractors, subcontractors, tenants, and subtenants, shall file an Annual Report with the CCO by December 1 of each year in which it shall provide the following information:

(1) For each Employee that performed work relating to the City Contract, or at the site that is the subject of the City Lease or City Financial Assistance:

(i) The Employee's name;

(ii) Total hours worked performing the City Contract, or at the site that is the subject of the City Lease or City Financial Assistance;

(iii) Hourly wage paid;

(iv) Hourly cost to the employer of any health benefits provided the Employee;

(v) Gender; and

So that the new Section 11(d) will read:

- (d) Every Contractor or Beneficiary, including covered subcontractors, . . . shall post in a conspicuous place at any job site subject to this article an explanation of the current Living Wage and Health Benefits Rates, Nondiscrimination in Benefits Requirements, and other worker protections, conferred under this article.

To Section 12(b)(5), add the following:

At the end of the current section, add a comma and the phrase, “or for a period of two years, whichever is longer.”

RCS# 6374
1/03/05
2:25 PM

Atlanta City Council

Regular Session

03-O-0409

COA & BUSI REC'V CITY FUNDS OR PROP USE
ENGAGE IN RESPONSIBLE BUSI PRACTICES
FILE AS AMENDED

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	NV Willis
NV Winslow	Y Muller	Y Sheperd	NV Borders

03-O-0409

03-0-0409
(Do Not Write Above This Line)

An Ordinance by Councilmembers
C. T. Martin, H. L. Willis, Natalyn
Archibong, Jim Maddox, Ivory Lee
Young, Jr., Derrick Bozeman,
Cesar Mitchell,
Carla Smith, Gail Stables, Mary
Mary Norwood,
To amend the Code of Ordinances
of the City of Atlanta to add a new
article to ensure that the City of
Atlanta and businesses that
benefit from receipt of City funds
or from use of City property
engage in responsible business
practices by paying their
employees a living wage and
health benefits, practicing pay
equity, and ensuring that public
funds and public property are
used in a viewpoint-neutral
fashion and not diverted for
inappropriate purposes.

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 3/3/03
 Referred To: Finance / Exec
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____
 Date Referred _____
 Referred To: _____

First Reading

Committee _____
 Date _____
 Chair _____
 Referred To _____

FIN Committee
 Date 3/12/03
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side) _____
 Other _____
 Members _____
 Refer To _____

FIN Committee
 Date 12-15-04
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side) _____
 Other _____
 Members _____
 Refer To _____

FIN Committee
 Date 3/12/03
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side) _____
 Other _____
 Members _____
 Refer To _____

Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side) _____
 Other _____
 Members _____
 Refer To _____

- FINAL COUNCIL ACTION
- 2nd
 - 1st & 2nd
 - 3rd
 - Consent
 - V Vote
 - RC Vote

CERTIFIED

CERTIFIED
JAN 03 2005

Rodolph B. Johnson
MUNICIPAL CLERK

JAN 03 2005

MAYOR'S ACTION

JAN 03 2005

FILED BY
CITY COUNCIL